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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 13 August 1996, at 10 a.m.

Chairman: Mr. EIDE

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The meeting was called to order at 10.10 a.m.

ELIMINATION OF RACIAL DISCRIMINATION:

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (agenda item 5) (continued) (E/CN.4/Sub.2/1996/5 and 8, E/CN.4/1996/71 and Add.1 and E/CN.4/1996/72 and Add.1 to 4)

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FREEDOM OF MOVEMENT:

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES;

(b) POPULATION DISPLACEMENT;

(c) RIGHT TO LEAVE ANY COUNTRY, INCLUDING ONE'S OWN, AND TO RETURN TO ONE'S OWN COUNTRY (agenda item 18) (continued) (E/CN.4/Sub.2/1996/29)

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO RACISM, XENOPHOBIA, MINORITIES AND MIGRANT WORKERS (agenda item 20) (continued) (E/CN.4/Sub.2/1996/30)

1. Mr. sang yong PARK said that, as a new member of the Sub-Commission, he felt both honoured and somewhat apprehensive at the prospect of working with such competent and eminent human rights experts, whose dedication and wisdom had greatly contributed to the achievements of the Sub-Commission over the past 47 years. He would do his utmost to discharge his duties impartially and conscientiously and counted on the encouragement of his more experienced colleagues, as well as on the assistance of the staff of the Centre for Human Rights.

2. Mr. KHALIFA, referring to agenda item 5, said that, if the apocalyptic prospect of a third world war was set aside, the world's present fears arose from the upsurge of the demons of the extreme right wing, failure to respect the principle of sovereignty, the rebellion among minorities and national groups and the marginalization of the third world. Those four trends were linked by a common thread: the awakening of racism, which was evidenced by the electoral success of the extreme right-wing parties and the proliferation of extreme right-wing movements in the United States and throughout Europe as a result of South-North migrations and of the deterioration in the economic situation in the industrialized countries. Migrants who came in search of security and better living conditions in the North, just as colonizers had gone to seek freedom and wealth in the South, now found borders sealed off. Racism should be seen as the arch-enemy of peace. It was impossible to imagine an international order based on a world community poisoned and divided by racism.

3. No one could claim to belong to a pure race and, even if such a claim could be made, it would certainly not justify hatred and hostility. Young people should be taught that there was no such thing as a pure race in order to make differences more acceptable and to instil a sense of humility, to teach them not to categorize others, but to regard them as individuals, and to show that no one was superior to anyone else.

4. When discussing racism, it was impossible not to refer to South Africa, where de facto apartheid still existed. The police and the South African Defence Forces were still playing a sinister role in stirring up trouble between the Zulus and the ANC. Unless radical measures were taken, South Africa could very well fall back into the same situation as before and explosive race confrontations could erupt at any time. It was difficult to be optimistic when all institutions had been dismantled and violence had taken hold of the daily life of society. At the very least, an intensive education and training programme should be established to promote equality of opportunity and the fairer distribution of the wealth of the nation in order to eliminate de facto apartheid, put an end to the economic and social marginalization of the majority and prevent the Black political élite from joining hands with the powerful economic interests held by the White minority to the detriment of the masses. South Africa would not always be headed by so charismatic and trustworthy a figure as Nelson Mandela and things would become more complicated after 1999, when the new Constitution entered into force. It was time for the ANC to show that it was capable of building a non-racial, democratic society that was concerned about the interests of the population as a whole.

5. Mr. GUISSE, referring to agenda item 5, said that the destruction of apartheid had by no means cured the social gangrene of racism, which continued its dangerous progress towards formerly healthy areas, reviving practices associated with the past. Acceding to international human rights instruments was one thing, but putting them into practice through the law was another, and it took a great deal of political courage. In that connection, he commended the vision and courage of President Mandela, who had not hesitated to abolish the death penalty in his country, where it had been widely used against his people for reasons of race. Apartheid had polarized public opinion, while, in other countries, racism and exclusion had taken on serious proportions. The international community had to bring pressure to bear on Governments to persuade them to repeal legislative provisions and regulations that encouraged exclusion and, as a first step, that involved eliminating all the vehicles for such practices and, in particular, advertisements and films which portrayed Blacks and Asians as inferior beings.

6. It was impossible to discuss racism and discrimination without referring to the fate of migrant workers and their families, who paid a very heavy tribute to the immigration and exclusion policies followed by the Western countries without any reaction by the international community, which had no hesitation in punishing developing countries that violated human rights. Such a double standard was a threat to the peoples of the whole world, as it provided fuel for reverse racism that might well soon break out. Extreme right-wing parties were often stigmatized, but, whatever their ideology, all political movements shared the same attitude of exclusion towards migrant workers.

7. The United Nations should draw up a list of all States in which slavery survived in order to have them report regularly on trends in that phenomenon and in slavery-like practices in their territory. He was also disturbed by the spread of anti-Semitism and by the violent attitudes of certain groups towards the Jewish people. He denounced the existence of other equally serious practices affecting women and children, particularly in certain ethnic or religious groups. It was essential to find means of eradicating such evils.

8. The UNESCO proposals on human rights teaching for all peoples and, in particular, the rights which advocated equality for all, were very important. Children should be taught genuine respect for others from an early age. In conclusion, he suggested that a set of internal and international provisions should be prepared in order effectively to combat any advertising or performances whose content was discriminatory.

9. Mr. LINDGREN ALVES, referring to the question of racial discrimination, said that he fully agreed with the comment which the Special Rapporteur had made in his report (E/CN.4/1996/72, para. 58) that "the manifestations of contemporary forms of racism, racial discrimination, xenophobia and related intolerance, together with anti-Semitism, bode ill for the international community", pointing out that it was precisely because those phenomena boded ill that the Sub-Commission had proposed, two years previously, the organization of a world conference on racism. Unfortunately, the General Assembly had not supported the proposal and the Sub-Commission was being blamed for simply duplicating what was already being done in higher bodies.

10. It was gratifying that the Special Rapporteur had been authorized to visit some European countries in which racism seemed most acute. He was pleased to learn that the measures taken by the Government of Germany to control acts of xenophobia were bearing fruit and that the civil society in France and the United Kingdom was mobilized to counter the worst aspects of racism and xenophobia. It was, however, sad to have to admit that the crisis of society and civilization the Special Rapporteur had identified in France actually spread well beyond the geographical boundaries of one country and of the European continent. Racism in today's world was but a pretext - and a disgusting one - for excluding those who did not belong to the privileged strata of any society.

11. The invitation that Brazil had extended to the Special Rapporteur shortly after he had assumed his functions showed that the Brazilian Government and Brazilian society were willing to face up to the problem of racism that still existed in the country, although to a lesser extent than in other societies. On the whole, he agreed with the Special Rapporteur's assessment of the Brazilian situation, except in respect of miscegenation. The Special Rapporteur's misgivings in that regard were partly understandable, but it was dangerous to cast doubt systematically on the positive aspects of miscegenation. Intermarriage was the easiest way of creating a real community of people that would not be classified by race and colour and it was thanks to intermarriage that Brazil did not have the problem of ethnic, national or

religious conflicts so common elsewhere. Moreover, systematic opposition to intermarriage might not only disguise a different form of racism, but could also lead to policies of racial segregation.

12. Stressing the importance that should be attached to education, he recalled that, at the Olympic medals ceremony, the winner of the marathon, a South African Black, had invited the two other medal winners to join him on the highest step on the podium. That was one of the typical gestures that had to be taught as part of an education policy.

13. Mr. FAN Guoxiang, referring to agenda item 17, said that, as was clearly indicated in articles 1 and 8 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, it was the task of the Sub-Commission, through the intermediary of its Working Group on Minorities, to study not the question of self-determination or the dismemberment of States, but means of ensuring respect for and the promotion and protection of the legitimate rights of national minorities. There were as many fruitful and positive experiences as acute conflicts in that regard. While it was true that no State could claim to be faultless in that respect, there were some where a variety of ethnic groups co-existed peacefully, giving priority to the interests of the community as a whole, and where mechanisms were available to solve problems that might arise. Lack of mutual respect and tolerance, negligence of common objectives and overemphasis on contradictions by different nationalities in a State aggravated ethnic conflicts and even brought about tragedies. Such a situation might be the result of the impotence of the Government concerned, its bias in favour of one minority, the colonial heritage or manoeuvring by some great Powers. Account should also be taken of the role played by troublemakers who pretended to be looking after the interests of a particular national minority, but were actually trying to achieve other goals with total impunity.

14. The Sub-Commission and the Working Group on Minorities should be guided by the principles of promoting solidarity and mutual respect among the various nationalities in a State and avoiding the aggravation of potential conflicts between nationalities; promoting coexistence among nationalities within the territory of a State and avoiding the fragmentation of States; and promoting the political and social stability of States in which minorities lived and averting national, regional and international destabilization. In any event, a realistic, step-by-step approach was better than hasty measures.

15. Mrs. MBONU said she fully agreed that States should adopt legislative measures on behalf of minorities, but she warned the Sub-Commission about the activities of certain minorities which threatened to undermine the territorial integrity or political unity of States that complied with international human rights standards and the rights of minorities.

16. It was apparent from the report by the Working Group on its second session (E/CN.4/Sub.2/1996/28) that machinery for facilitating dialogue among minorities and between the latter and Governments was often inadequate at the national level, so that minorities tended to be excluded from the decision-making process. In her own country, Nigeria, where over 250 different languages were spoken, legislation and administrative practices nevertheless ensured that the linguistic, religious and cultural rights of minorities were safeguarded. In Africa, the cultural diversity of countries divided by artificial boundaries was a legacy of colonialism. To prevent massacres such as those in Rwanda and Burundi from occurring again, the international community and the Working Group on Minorities should give the necessary attention to the establishment of prevention and early-warning mechanisms.

17. Turning to the activities of the Working Group itself, she said that it should not be used as a forum for complaints and that it should further examine the distinction between assimilation and integration. It should also

not waste too much time studying the question of the definition of minorities. As indicated in paragraph 155, it would be better to adopt constructive approaches based on the different needs and situations of minorities. It would be appropriate for the Working Group on Minorities to become permanent, on the same basis as the three other working groups of the Sub-Commission, and she endorsed the recommendations made by the Working Group as a whole and, in particular, the recommendation concerning the establishment of a voluntary fund to enable NGOs representing minorities in developing countries to participate in its work, provided that they were sincerely committed to seeking solutions for the peaceful coexistence of minorities within States rather than to dismembering the Member States of the United Nations.

18. Mr. BENGOA, referring to the working paper submitted by Mr. Eide under agenda item 20 (E/CN.4/Sub.2/1996/30), said that he shared Mr. Eide's view that international circumstances had changed considerably in recent years and that the system for the protection of human rights should take those changes into account. It also had to be decided whether minorities should join the ongoing process of cultural globalization or whether they should be protected so that they could keep their own identity. It could be asked whether the "protection" of minorities was not paternalistic or outdated and whether persons belonging to minorities should not be protected on the same basis as any other persons, without continuing to group people together in ways that could be regarded as obsolete.

19. The distinction between integration and assimilation, which had been discussed by the Working Group on Minorities, was a question of political and juridical outlook and related to how the question of minorities was perceived. Assimilation implied that the minority became totally dissolved in the majority, whereas integration theoretically meant that a minority group became part of the majority community while preserving its own identity. A policy of assimilation would in the long run eliminate a society's cultural diversity and he preferred the concept of integrated societies in which the diversity of minorities, their identity, specific characteristics and particular way of fitting into globalization were respected.

20. The Working Group on Minorities had been an outstanding forum for those discussions, on account, inter alia, of the harmony and enthusiasm of its members, the active and constructive participation of NGOs and many Government delegations and the support of the secretariat. Three aspects of the Working Group's mandate were particularly important: it should serve as a specialized body and become a special forum for the formulation of doctrine on the question of minorities, new policies, regulations and proposals for codification: propose peaceful solutions to the problems of minorities; and contribute to the dialogue between majorities and minorities. Preventive measures were of the highest importance in that regard. When disputes between minorities and majorities developed into armed conflicts, it was difficult to take sides. NGOs and Governments should therefore be invited to draw the attention of the Sub-Commission and the Working Group to situations which had not yet become so serious that they could not be settled by peaceful means before degenerating into conflicts. The Working Group had to have clear indications on how it was to fulfil its mandate in dealing with the specific cases submitted to it.

21. In today's world, a person would have to be blind not to see that the social and cultural future would be marked by two simultaneous trends: the globalization of societies and the "reidentification" of minorities and social groups. With the re-emergence of minority groups in many countries, innovative solutions had to be found in terms of political institutions, for example, by looking to the principle of federalism or the concept of "autonomy" without secession, on the understanding that each case was special and had to be solved in the light of the traditions and customs of the parties concerned.

22. Two other conflicting trends were globalization and the widening gap between rich and poor countries. The natural consequence of that situation was the movement of millions of individuals from the third world towards the developed countries. The concept of "migrant worker" no longer described the phenomenon because it now affected whole families. It was not fair that the only policy that the rich countries applied was to close their borders. In order to survive, poor people invented all kinds of more or less honest means of entering those countries, where they knew perfectly well that they were needed to do the lowliest jobs that local workers refused to do. If the rich countries did nothing about the causes of international economic migration, the pressure at their borders would be greater every day. For all those reasons, the Sub-Commission should pay particular attention to those new topics, on which international instruments were quite vague and to which Mr. Eide had referred in paragraphs 44 et seq. of his working paper.

23. A number of other topics deserved the closest attention, including "affirmative action", restrictions on freedom of the press and freedom of assembly to prevent xenophobia and incitement to ethnic hatred, and the importance of education in making majorities understand the diversity and cultural wealth of minorities and their contribution to a country's history. Lastly, the proposal for the extension of the Working Group's mandate should be given serious consideration.

24. Mr. CHERNICHENKO said that the Working Group must be careful not to adopt too broad an interpretation of the concept of racism. In the eyes of some NGOs, any measure affecting ethnic or religious movements could be regarded as racist, even if it was justified by international law. In addition, there seemed to be a tendency systematically to link that question to the concept of self-determination. Some speakers had suggested that too much importance should not be attached to definitions. However, working without a definition was tantamount to groping in the dark and it was good to clarify certain concepts.

25. The right to self-determination was a right of peoples, not of national or ethnic minorities. Moreover, the right to self-determination implied the right to secede only in certain cases, for example, in non-autonomous territories, in the case of peoples living in territories annexed after 1945 or when the population of a particular territory of a specific State was entitled to secede under the Constitution of the State. A number of international instruments such as the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples and the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations emphasized that the right to self-determination should not be interpreted as legitimizing the destruction of the national unity and territorial integrity of a country which respected the rights of minorities and guaranteed to its population fair representation in Government bodies. There were, of course, different points of view and some people thought that all existing national borders should be reconsidered. In such a case, Corsica or Brittany might be able to secede from France. A number of questions arose in that regard. It could be asked who should be responsible for proving whether or not a State respected the principle of equity towards the whole of the population living in its territory. It might also be asked how the right to self-determination, to which the Kurdish people was unquestionably entitled, could be exercised in practice since the Kurds now lived in the territory of several different States.

26. Referring to the question of the definition of the term "minority", he asked how a people was distinguished from a national or ethnic minority. It was true that a national minority could become a people, but, without a clearly defined principle, a global definition of the term "minority", or at least the formulation of relevant guidelines, would be useful.

27. He requested that agenda item 18 (c) on the right to leave any country, including one's own, should be kept on the agenda of the Sub-Commission's forty-ninth session. A great deal of thought had been given to that question over the years and, in view of the new elements which had recently come to light, the Sub-Commission might decide to establish a sessional working group on it.

28. Mr. YIMER, referring to agenda item 20, said that the working paper submitted by Mr. Eide (E/CN.4/Sub.2/1996/30) contained a wealth of interesting ideas relating, inter alia, to the shift from the territorial State to the "virtual State" (para. 14), the two apparently conflicting processes of globalization and the revival of nationalism and ethnic or religious identities, including fundamentalism (para. 15), and recognition of the fact that the processes linked to globalization were not egalitarian, as they originated in some parts of the world while other regions suffered the consequences (para. 17). According to Mr. Eide, those processes contributed to tension, including in the industrialized countries, and were partly responsible for the substantial levels of structural unemployment in the countries of western Europe and the sharp decrease in levels of income for many workers in the United States (para. 19). In his view, that statement was debatable and the question should be considered in greater depth.

29. Regarding the development of a broader strategy (sect. D) to prevent discrimination and protect minorities, he shared Mr. Eide's view that the Sub-Commission was ideally suited to consider those issues, as it was an expert body, and that it should work in close cooperation with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

30. The conclusions (sect. E) raised ambiguous and controversial issues such as the relationship between freedom of expression and association, on the one hand, and the prohibition of organizations and statements which fomented hatred, on the other, and the relationship between the territorial integrity of sovereign and independent States, the principle of non-interference, the prohibition and prevention of "ethnic cleansing" and the right of peoples to self-determination. The Sub-Commission should focus its attention on those issues. It should also, as recommended by Mr. Eide, give priority to the question of the treatment of aliens and stateless persons, on which standard setting and follow-up were particularly necessary, and to the problem of deportations and expulsions of aliens.

31. It was rightly pointed out (para. 49) that a ceiling had been placed on the number of formal studies with financial implications which the Sub-Commission could carry out. However, he suggested that, in order to carry out the activities forming part of its mandate, the Sub-Commission should consider other possibilities than the establishment of sessional working groups, as suggested in paragraph 50 of Mr. Eide's paper. In conclusion, he thanked Mr. Eide again for the high standard of his working paper.

32. Mrs. PALLEY welcomed the fact that the Bureau had decided that agenda items 5, 17, 18 and 20 should be considered jointly and said she hoped that it would take a similar decision on items 15 and 16, items 7, 11 and 8 and items 13 and 19. She suggested that those changes, which had already been put into practice, should be formally adopted when agenda item 22 was considered. A shorter and more coherent agenda and less repetitive discussions would only benefit the Sub-Commission's work.

33. Turning to the question of the protection of minorities, she said that the excellent reports of the Working Group on Minorities (E/CN.4/Sub.2/1996/2 and 28) reflected the theoretical, practical and, above all, prudent approach adopted by its members. She stressed that the term "minorities" did not require a definition, but simply clarification. During its discussions, the Working Group had emphasized, in the context of regional mechanisms, that,

when new instruments were drawn up, they should not be interpreted as derogating from existing standards of protection. The same principle should apply to bilateral treaties. As to the extension of the Working Group's mandate, she hoped that, if it was not made indefinite, it would be for a period of four years because it had restored the Sub-Commission's basic function of protecting minorities.

34. Referring to agenda item 5, she commended the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his excellent reports (E/CN.4/1996/72 and Add.1 to 4). She noted with satisfaction that he had started with situations of racism and xenophobia in western countries. In parallel with his work, the Sub-Commission should take up the residual forms of slavery that still existed in some countries and, in particular, in certain western countries, where they were a legacy of past ideologies.

35. With regard to the question of population displacement, which was covered by a subparagraph of agenda item 18, she regretted that the Special Rapporteur on population transfers had run into obstacles of different kinds. The Sub-Commission should request that funds should be allocated for the organization of a seminar to enable the Special Rapporteur to complete his work.

36. As to agenda items 18 and 20, she stressed that the Sub-Commission, which had been criticized in the past for having undertaken too many studies, should not go to the other extreme of deciding not to take up any new studies during the current year. It had to have a rational policy in that regard and fill the gaps which existed in certain areas and which would justify the start of the new studies. For example, a systematic review could be undertaken of the Universal Declaration of Human Rights to identify the rights which did not receive enough attention and which could justify a study or the appointment of a thematic rapporteur. For example, the right to freedom of movement and residence within the borders of each State and to leave any country, including one's own, and to return to one's country (art. 13) and the right to seek and to enjoy in other countries asylum from persecution (art. 14) were insufficiently protected. A study could also be made of the right to a nationality, the right to own property and the right to social security (arts. 15, 17 and 22) and, above all, of the rights and duties of the individual towards the community (art. 29). Two other general studies needed updating, the one relating to machinery for the implementation of human rights, in order to deal with the implementation of human rights in time of armed conflict, and Mr. Whitaker's study on the prevention and punishment of the crime of genocide (E/CN.4/Sub.2/1985/6), in order to include the question of ethnocide.

37. In conclusion, she suggested that the Sub-Commission should undertake three new studies each year. She again welcomed the new organization of debates, which had proved more intellectually stimulating and better suited to consensus among the members.

38. Mr. GARCIA (Pax Romana), referring to agenda item 18 (b), said that, at its previous session, the Committee on Economic, Social and Cultural Rights had expressed its serious concern about the situation of the 32,300 Guatemalans who were internally displaced or refugees in Mexico. The proposal by the Government of Mexico to allow them to settle in Mexico was all the more interesting as the Government of Guatemala was still somewhat hostile to their return.

39. The lack of resources prevented UNHCR, the World Food Programme and the International Committee of the Red Cross from providing sufficient aid to the 200,000 Sudanese refugees in Uganda. In addition, in July 1996, the so-called "Lord's Resistance Army" led by Joseph Koney had killed 107 people, mainly women and children, in the Acholi-Pii refugee camp.

40. According to UNHCR, in the Great Lakes region, several thousand Burundians whose relatives had been murdered in ethnic conflicts had taken refuge in Zaire and Rwanda. The Burundian authorities were denying UNHCR access to the Kibezi and Ruvumu refugee camps, which contained 27,000 refugees, most of them Hutus. The same authorities had already expelled 13,500 refugees from Burundi to Rwanda. The recommendations made by the Commission on Human Rights at its fifty-second session concerning the refugees had remained a dead letter.

41. In the Jaffna peninsula in Sri Lanka, tens of thousands of refugees were being used as pawns to prevent a complete victory of the Government forces. In the Indian State of Tamil Nadu, pressure was allegedly being brought to bear on the 56,000 Tamil refugees to force them to return to Sri Lanka.

42. At their most recent meeting, the G7 members had announced their willingness to grant development aid to countries affected by conflicts, particularly in Sub-Saharan Africa. Such aid should take account of the existing economic fabric in the region concerned.

43. Pax Romana invited the Sub-Commission to make an urgent appeal to States and to multilateral organizations to increase their emergency assistance to all countries in need of it and requested that the human rights of displaced populations should be respected and that the Government of Guatemala should implement the relevant recommendations of the Commission on Human Rights.

44. Mr. DURIEUX (Office of the United Nations High Commissioner for Refugees) said that UNHCR acknowledged the important contributions made by the Sub-Commission in areas closely connected with its own work, and in particular the reports submitted at the current session on the question of the impunity of human rights violators (E/CN.4/Sub.2/1996/18) and on traditional practices affecting the health of women and children (E/CN.4/Sub.2/1996/6). In that connection, UNHCR noted with satisfaction that several national jurisdictions responsible for determining refugee status had recognized in some cases that the forced mutilation of a woman or girl when she returned to her country of origin, or the consequences for the parents of refusal to have their daughters undergo that procedure, could be considered persecution under the 1951 Convention relating to the Status of Refugees.

45. UNHCR endorsed the view expressed by Mr. Eide at the end of his working paper on a comprehensive programme for the prevention of discrimination and the protection of minorities (E/CN.4/Sub.2/1996/30) that, in setting priorities, the Sub-Commission should not lose sight of its primary mandate, the prevention of discrimination and protection of minorities.

46. On the question of freedom of movement, Sub-Commission resolution 1995/13 highlighted the interrelationship between the various aspects of that right, i.e. the right to leave, the right to return to, and the right to remain in a country, as well as the right not to be displaced. That comprehensive approach was the right one and, in that context, UNHCR drew the Sub-Commission's attention to two areas in which increased efforts were warranted. The first related to the right to leave a country in order to seek asylum in another country, which was being called into question by the restrictive policies practised by States in respect of the admission of refugees and asylum-seekers. Xenophobic reactions in many countries had caused Governments to erect barriers against potential refugees, thereby undermining the effective exercise of the right to asylum. The detention of asylum-seekers as a deterrent continued unabated on all continents. The fate of refugees and asylum-seekers affected by HIV or AIDS was particularly dramatic, as they were denied both asylum and third country resettlement.

47. "Ethnic cleansing" and similar practices were among the most pressing and complex questions requiring the Sub-Commission's attention. Population transfers, especially by means of ethnic cleansing, were a violation of the

right to return to one's place of habitual residence or to remain in a country, as were, under certain circumstances, population exchanges, forced evictions and forced evacuations without imperative security reasons. UNHCR offered its assistance to the Sub-Commission to enable the Special Rapporteur on the human rights dimensions of population transfer to submit his final report. He also encouraged the Sub-Commission to prepare a comprehensive study on all aspects of the right to freedom of movement.

48. Lastly, because practices relating to citizenship could intensify discrimination among groups, as Mr. Eide had pointed out in his working paper, UNHCR suggested that the Working Group on Minorities should examine the links between minority protection, citizenship and statelessness. UNHCR looked forward to a continuing dialogue and cooperation with the Sub-Commission in view of the complementarity between standard-setting and operational human rights work.

49. Mr. COFFINIER (United Towns Agency for North-South Cooperation), referring to agenda item 18, said that the problem of migrations was caused by political, economic and demographic factors.

50. Some people were compelled to leave their country because they could no longer exercise their freedom of expression and thought. In some cases, "host countries" did not respect the rights of those political refugees, particularly with regard to freedom of movement (art. 13 of the Universal Declaration of Human Rights) and family reunion (art. 16, para. 3).

51. In host countries, persons who emigrated for economic reasons did not always receive "just and favourable remuneration ensuring for themselves and their families an existence worthy of human dignity", as required by article 23, paragraph 3, of the Universal Declaration.

52. The overpopulation of some countries which had not been able to manage or forecast their demographic growth was the third cause of migrations. Migrant workers in host countries felt uprooted and were often separated from their families. Sometimes, they could not freely practise their religion or express their beliefs. Migrant workers and their families could be deprived of welfare protection and of educational possibilities and their children ran the risk of finding themselves outsiders both in the host country and in their country of origin.

53. In conclusion, he invited the international community and the United Nations to control the phenomenon of "delocalization" so that everyone would be able to receive remuneration in conformity with the requirements of the Universal Declaration of Human Rights, thereby limiting economic migration and encouraging the development of the non-industrialized countries. The transfer of skills between industrialized and non-industrialized countries was much better than the population displacements currently taking place.

54. Mrs. SPALDING (International Association of Educators for World Peace) said that, in the context of the Third Decade to Combat Racism and Racial Discrimination, the Decade for Human Rights Education and the International Decade of the World's Indigenous People and to mark the fiftieth anniversary of UNICEF and UNESCO, the International Association of Educators for World Peace believed that it was imperative to refer, under agenda item 20, to the action being carried out by young people and people working with young people to combat racism. She gave the floor to a young member of her association who would speak on the topic.

55. Mrs. LYON (International Association of Educators for World Peace) said that more than half the hate crimes in the United States were committed by young people aged between 15 and 24. As an educator, she knew that teachers had a vital role to play by creating a climate of tolerance in the classroom and showing that differences were a source of mutual enrichment.

Multicultural education and programmes to develop awareness of human rights and eliminate racial prejudice should therefore be encouraged.

56. In the United States, organizations such as the Anti-Defamation League, the Southern Poverty Law Center and the Federation of Child Care Centers of Alabama had created programmes and teaching materials to enable educators to combat racism and xenophobia effectively.

57. Mr. QUAYES (Observer for Bangladesh), referring to agenda items 17 and 20, said that his delegation had carefully studied the working paper by Mr. Eide (E/CN.4/Sub.2/1996/30). In connection with section B of the paper, he emphasized that the Sub-Commission's mandate was not to prevent discrimination or to protect minorities, but to make recommendations to the Commission on Human Rights concerning prevention of discrimination and protection of minorities and that it had played a key role in drafting international standards concerning the protection of minorities.

58. With regard to section C, while it was true that extreme nationalism could lead to intolerance, in historical terms, nationalism had played a leading role, especially during decolonization, and it would be preferable not to associate it with xenophobia. Xenophobia, ethnic intolerance and violations of the rights of migrant workers were expressions of protectionism, whether of national or cultural space, the market place or simply social "homogeneity". The process of globalization, as referred to in paragraph 15, actually led to the economic, political and cultural marginalization of the non-dominant countries, which tried to adjust to the trend, perhaps to the detriment of their national interest. At the same time, the international community seemed to be emphasizing the preservation of the diversity of the constituent parts of States, possibly to the detriment of their general interest. Consideration should be given to ways of reconciling globalization, diversity and national interest in the interest of mankind as a whole.

59. Turning to section E, he noted that, with regard to action to combat racial discrimination (para. 37), any refusal to take affirmative action, which could, of course, be described as "reverse discrimination", would mean maintaining discrimination against the groups concerned. As to abuse of freedom of expression (para. 38), incitement to hatred should be condemned, but so should disinformation, as it was a violation of freedom of information. Referring to the draft United Nations declaration on the rights of indigenous peoples (para. 40), he said that it was too early to set up machinery, for its implementation, since the text had not yet been adopted by the General Assembly. The comment that the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was "formulated in rather vague terms" (para. 41), had to be viewed in the light of the report on the work of the first session of the Working Group on Minorities, which had focused mainly on the clarification of concepts.

60. Turning to agenda item 17, he recalled that his country was deeply committed to the work of the inter-sessional Working Group on Minorities. However, the Working Group had departed from its mandate by holding its second session at a time not provided for in the schedule drawn up by the Commission on Human Rights in resolution 1995/24. His delegation had therefore regretted having to inform the High Commissioner for Human Rights that it would not participate in that meeting. He suggested that the Sub-Commission might invite the Working Group carefully to consider its mandate, as defined by the Commission on Human Rights.

61. Mrs. WARZAZI thanked the Chairman-Rapporteur of the inter-sessional Working Group on Minorities for his work. She earnestly hoped that the work of the Group would have a beneficial impact on relations between minorities and Governments.

62. The Sub-Commission should take a greater interest in the fate of refugees and asylum-seekers who were often the victims of racist attacks. Instead of adopting vigorous measures to remedy that situation, some States took the easy way out: they closed their borders and expelled asylum-seekers,

thereby intensifying the xenophobic feelings of the local population. In such circumstances, the right to asylum and freedom of movement had to be strengthened.

63. It was regrettable that it had not been possible to organize the expert meeting on the question of population transfers because of the lack of funds. Perhaps the Sub-Commission could request UNHCR to fund such a meeting. It might also request one of its members to prepare a working paper on freedom of movement and population transfers.

64. The CHAIRMAN said that he would ask the Centre for Human Rights and UNHCR whether they would be able to help fund the meeting referred to by Mrs. Warzazi.

65. With regard to the right of reply, the Bureau had decided, at its preceding meeting, that Government observers were fully entitled to contest the facts presented by an expert of the Sub-Commission, provided they did not question his integrity or sincerity.

The meeting rose at 1 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 13 August 1996, at 4 p.m.

Chairman: Mr. EIDE

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PROTECTION OF MINORITIES (continued)

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ELIMINATION OF RACIAL DISCRIMINATION

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FREEDOM OF MOVEMENT

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

(b) POPULATION DISPLACEMENTS

(c) RIGHT TO LEAVE ANY COUNTRY, INCLUDING ONE'S OWN, AND TO RETURN TO ONE'S OWN COUNTRY (agenda item 18) (continued) (E/CN.4/Sub.2/1996/29)

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO RACISM, XENOPHOBIA, MINORITIES AND MIGRANT WORKERS (agenda item 20) (continued) (E/CN.4/Sub.2/1996/30)

1. Mr. ALI KHAN, speaking on agenda item 18, said that despite the adoption of resolutions related to the agenda item by the General Assembly and the Commission on Human Rights, the problem of ethnic cleansing had reached such alarming proportions in some parts of the world, notably in Asia and the subcontinent, that the Sub-Commission must take urgent action, together with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other specialized agencies, to safeguard the principles of ethnic, religious and cultural diversity.

2. On the question of the citizenship of migratory populations, from a legal and practical point of view, a group was bound to be associated with the territory on which it lived. Yet in some regions, families of third-generation and even fourth-generation migrants still had no rights of any kind. One way to protect their interests that had been suggested was to enlarge the field of human rights so that they came within its scope. He suggested that another way, since they were denied rights of citizenship, would be to grant them domiciliary rights and the right to return home. He cited the British Nationality Act of 1948 as an example of legislation which recognized the rights of people who had lived in a territory for a certain length of time. Although there were political considerations to bear in mind, UNHCR, as an operational agency, needed some firm legal guidelines on which to base its interventions.

3. Ms. McDOUGALL, speaking on agenda items 5, 17 and 20, said that the struggle to eradicate racism in South Africa had not been completed, but had simply entered a new stage. While the new Parliament and Cabinet were dismantling the constitutional structures and legal framework of apartheid, the basic construct of the apartheid society, namely, profound economic and social inequalities, remained. Apartheid was more accurately described as a

system of economic exploitation based on racial discrimination, and the core of apartheid would persist unless the new Government could find the resources to create a level of economic and social equity.

4. She believed that the critical issue to be examined with reference to racial discrimination was its intersection with the denial or violation of other fundamental human rights. It was also important to consider the potential for racially disparate impact of apparently neutral laws, governmental policies, and public or private practices. In her view, racism and ethnic discrimination, along with gender, were cross-cutting issues that should be examined with respect to each item on the Sub-Commission's agenda.

5. Ms. MOYA (American Association of Jurists), speaking on agenda item 17, said that the invaluable and inestimable contribution made by the 200 million people of African descent living on the American continent to the wealth, culture and progress of the local and national societies in which they lived continued to be disregarded and downgraded. Relations within those class-ridden and racist societies which denied benefits and opportunities to people of African descent were characterized by rejection, contempt, xenophobia, dependence and superiority or inferiority complexes. More than merely tolerance and respect for difference were needed to protect the social, environmental, political and economic rights of those people. Communities needed to have more control over their own lives and truly intercultural relationships had to be nurtured in order to ensure a more equitable distribution of technological and financial resources. That implied not only tolerance, but also an acceptance of those who were different.

6. Throughout virtually the entire American continent, the mechanisms of exclusion were increasing: in education, their lack of participation meant that Blacks were stigmatized in order to safeguard long-standing privileges; they had fewer opportunities and fundamental rights; in the legal system, there was a lack of political will to establish, defend and apply instruments, to punish discrimination and protect Black workers' rights; the media and society at large, were producing sexual stereotypes and perceptions that led to discrimination in the workplace; in countries like Colombia, Brazil and the United States of America, Blacks were being equated with criminals; and rural areas occupied by Black communities were treated by Governments as if they were uninhabited, as in the case of the planned interocean link canal in Colombia.

7. She called on the United Nations to carry out a study of Black communities on the American continent, not only to lead to an improvement in the understanding of the problems involved but also to better inter-group relations as well as better living conditions for Black people. It would also be helpful if a voluntary fund could be set up to allow representatives of the Black communities in America to attend and participate in the sessions of bodies such as the Working Group on Minorities.

8. Ms. NEURY (Centre Europe - Tiers Monde), speaking on agenda items 5 and 20, said that her organization deeply regretted the Sub-Commission's decision to group together agenda items 5, 17, 18 and 20, as it left little time for serious consideration of the issues.

9. On the question of migrant workers, she said that experience showed there was less paranoia about them in places where they had long been settled; familiarity allowed them to be seen first and foremost as neighbours and colleagues rather than as foreigners. Governments should avoid making laws which discriminated against migrant workers, and town planning should take into account social, economic and cultural factors so that genuine integration policies could be implemented.

10. Certain powerful political, economic and religious groups had found it easy to manipulate the so-called specificity of some groups, sometimes with tragic consequences. Immigration laws often opened the way for the expression of xenophobia and racism. She cited the view of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance that immigration laws in Europe, far from stemming the tide of immigration, had only continued to marginalize many foreigners. The responsibility of States was clear; generally, a State's willingness to combat racism and xenophobia was reflected in the laws it passed. She therefore wondered how the international community could put real pressure on Governments that enacted racist laws when they were signatories to the Convention on the Elimination of All Forms of Racial Discrimination, which considered such action an offence.

11. Her organization requested the Commission and Sub-Commission to allow the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to carry on with his work, in a spirit of independence, in the context of the Third Decade to Combat Racism and Racial Discrimination. She referred to the distinction drawn by the Special Rapporteur between racism as institutionalized government policy, such as apartheid, and a racism that adopted various guises and whose effects were seen in groups or social classes that tended to hold racist or xenophobic views often hidden behind high-sounding principles of equality. The second kind of racism was the form most common in the Western countries as well as the most dangerous, in so far as those countries continued to enact discriminatory laws while ratifying international conventions at variance with their national legislation.

12. Mr. WAREHAM (International Association against Torture), speaking on agenda item 5, commended both the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his independent, critical and objective work and the Sub-Commission on having initiated the process that led to the establishment of his office.

13. The Special Rapporteur had visited the United States of America in 1994. His report (E/CN.4/1995/78/Add.1) had met with a response from the member State that virtually amounted to a personal attack. Such a reaction to a report which, despite certain shortcomings, presented an objective picture of the situation in the United States, demonstrated the importance of ensuring that sufficient resources were available to maintain the Special Rapporteur's independence and the quality of his work and bolstered the demand for the appointment of a country-specific rapporteur.

14. The United States had criticized the Special Rapporteur for focusing on the situation of African Americans to the exclusion of other "minorities" but

the Government had done nothing to publicize his visit among minority communities or to make transportation available to representatives of community-based NGOs that were not located in the four cities to which his budget had confined him. Moreover, if the United States was unable to address the situation of the 40 million African Americans, it stood little chance of resolving any other racial situation.

15. The United States had criticized the Special Rapporteur for his "alarmist" description of a rising tide of racial hatred and violence in the country. But the International Association against Torture had revealed the existence of racist death squads within the New York City Police Department and had received reports that the Federal Bureau of Investigation (FBI) officers conducting the inquiry into the recent arson attacks on Black churches in the south had been investigating church members and leaders rather than focusing on white supremacists.

16. His organization advocated the convening of a world conference on racism in 1998, the fiftieth anniversary of the Universal Declaration of Human Rights.

17. Ms. PARKER (Humanitarian Law Project/International Educational Development, Inc.), speaking on agenda item 18, said it was regrettable that the Special Rapporteur on the human rights dimensions of population transfer, including the implantation of settlers and settlements, had been unable to prepare his final report because financial constraints had prevented the holding of a prior multidisciplinary seminar. Her organization strongly supported the idea of a seminar since it would ensure that the conclusions and final recommendations of the report reflected a wide cross-section of opinion on essential points. Certain Governments that were in breach of the Fourth Geneva Convention of 1949 were understandably troubled by the prospect of a seminar or report. Any State that had returned refugees from Sri Lanka, Myanmar, Liberia or any other country at war was in breach of article 45, and article 49 prohibited the wartime implantation of settlers and settlements or the removal of local inhabitants from occupied areas. China had been guilty of such practices in Tibet, Sri Lanka in Tamil areas, Indonesia in East Timor and Myanmar in the territories of ethnic nationalities.

18. The 1974 Declaration on the Protection of Women and Children in Emergency and Armed Conflict and Protocols I and II Additional to the Geneva Conventions of 1949 condemned forcible evictions and destruction of civilian dwellings in the course of military operations or in occupied territories.

19. She drew attention to the plight of 200,000 Tamils in Sri Lanka who had recently fled to the jungle from the heavy aerial bombardment of the Kilinochchi area. Her organization urged the Sub-Commission to call on the international community to press for a cease-fire in Sri Lanka and the establishment of conditions for a return to negotiations to end the conflict.

20. Ms. GRAF (International League for the Rights and Liberation of Peoples), speaking first on agenda item 17, said that her organization was especially concerned by the fate of minorities that did not reside within established and recognized State structures, for example in occupied territories.

21. Referring to the Greek Cypriots in the northern part of Cyprus and the enclaved group in Karpas in particular, she said that Turkey's failure to comply with the 1975 Third Vienna Agreement, which had established a framework for relations between the Greek Cypriot minority and the Turkish occupying authority, had perpetuated ethnic animosity. The resulting exodus of Greek Cypriots from the north had reduced the community to fewer than 500 people. To date none of the measures provided for in annex IV to Commission on Human Rights document E/CN.4/1996/54, such as freedom of movement between north and south for Greek Cypriots and Maronites, free circulation in the north of publications from the south and the upkeep of places of education and worship, had been implemented. The enclaved Greek Cypriot minority of Karpas was subjected to particularly harsh restrictions and its increasing isolation jeopardized the continued existence of the community.

22. The Turkish Cypriot minority was also being eroded by emigration and replaced by Turkish settlers. Attempts to express dissatisfaction were harshly repressed, trade unions had been banned and several outspoken journalists had been murdered.

23. The Turkish presence in Cyprus could not be deemed legitimate when the question of minority rights was at stake. The impasse would not be resolved until Turkey removed its forces from the north and dialogue between the Greek and Turkish Cypriots was begun. The basis of peaceful coexistence within a federal structure must be forged through the consent and participation of representatives of the two communities.

24. Turning to agenda item 18 (b), she urged the Sub-Commission to ensure that the Special Rapporteur's final report was completed as soon as possible. It should pay particular attention to the relationship between population transfer and the breakdown of the economic, social and cultural structure of the affected communities and should focus on Tibet and Myanmar, where forced relocations had led to a high level of social breakdown, malnutrition and disease.

25. Mr. AHMAD (World Muslim Congress), speaking on agenda item 17, joined other speakers and respected human rights activists such as Yelena Bonner and Sergei Kovalev in condemning the violent onslaught on the people of Chechnya. His organization was also concerned about the persecution of the people of Kosovo.

26. The Muslims of the Arakan region of Myanmar, the target of forcible eviction and persecution by the Government, had fled to refugee camps in Bangladesh, where some 60,000 were currently living under extremely harsh conditions. Their tragic plight deserved urgent consideration by the Sub-Commission.

27. In many societies, democracy was interpreted to mean the rule of the majority in the interest of the majority. Minorities had to submit to the will of the majority community. In India, the ancient caste system had caused immense suffering to the minority community known as the "untouchables", from which a large proportion of the country's bonded labour and child labour was drawn.

28. The discrimination against Muslims was as old as India's existence as an independent State. All economic and social development was withheld from them and they had been pushed down to the bottom of social and economic life. Symbols of their culture and identity remained under attack and their loyalty was always suspect. From time to time they fell victims to organized and systematic communal violence, after which the Indian Government habitually issued denials and took steps to prevent an impartial investigation.

29. The representation of Muslims in the national and provincial legislatures was far inferior to their population ratio. They were refused loans to start businesses, and serious hurdles were placed to deter their attempts to obtain higher education. Entry into Government service was practically barred to them.

30. Muslims were victimized by India's communal police and security services. Their schools for religious education were harassed, and the undertaking to rebuild the demolished Babri Mosque had never been intended to be implemented. Muslims constituted a disproportionately high percentage of persons arrested under the Terrorist and Disruptive Activities (Prevention) Act.

31. Gradually Muslims were being reduced to the status of second-class citizens. They were informed that if ever the people of Jammu and Kashmir succeeded in obtaining their right to self-determination, the Indian Muslims would be made to "pay for it". Nevertheless, India wanted to be labelled the world's "biggest democracy", and therefore be placed beyond scrutiny. The cancellation of the planned visit to India of the Special Rapporteur monitoring the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief was significant in that respect. The rehabilitation of the rights of Indian Muslims and other unrepresented minorities could be achieved only by empowering them to play an effective role in the governance of their country. For that purpose they must be able to send genuine representatives to the country's legislatures in proportion to their numerical strength. Constant international monitoring came next.

32. Mr. SLUIJK (International Federation for the Protection of the Rights for Ethnic, Religious, Linguistic and Other Minorities) said that terrorism was not committed exclusively by fanatical groups, but also by Governments. The Kurdish minority in Turkey, for example, had been intimidated and terrorized for more than a decade by the Turkish Government. Moreover, in 1974 the Turkish army had invaded Cyprus and had transferred over 80,000 Turkish citizens from Anatolia in order to change its demographic composition. Even the Turkish Cypriots were treated as second-class citizens by the Turkish occupying forces.

33. Another example of the violation of the rights of minorities was the treatment of the Greek minority in Albania, although the deprivation of the political rights of all Albanian citizens under President Sali was equally an cause of concern. In recent hearings before the International Relations Committee of the United States Congress, the recent elections in Albania had been characterized as "flawed" and security force beatings, prolonged pre-trial detention, poor prison conditions, occasional restrictions on freedom of speech, and discrimination and violence against women had also been

denounced. A former Albanian Deputy Prime Minister had stated that the Judiciary had been placed under the complete control of the Executive. The Government refused to return scores of churches belonging to Greek communities, as well as the most valuable monasteries, icons and other religious property and it had declared 21 "houses of prayer" to be part of the country's architectural heritage and had transferred them to the Ministry of Culture. It had been reported that Greeks were unable to obtain employment in the police force or the public service and there was a lack of public protection for their property. Greek schools and businesses had been burnt to the ground and their churches were desecrated by thugs. The authorities made no effort to arrest and prosecute the perpetrators, even when fatalities occurred. The Government had cleansed ethnic Greeks from all appointed positions of power. The police sometimes even joined in acts of harassment and extortion against the Greek minority, strengthening the belief that the violence inflicted on it was part of a government plan to force ethnic Greeks to move south into Greece.

34. The Government was severely restricting the ability of ethnic Greek children to obtain an education in their mother tongue by closing down Greek-language schools in violation of international norms for the treatment of minorities. Such action could even be described as a subtle form of ethnic cleansing and disregarded obligations entered into by the Albanian Government and the ruling of the Permanent Court of International Justice that Albania could not withdraw rights it had previously granted to the Greek minority.

35. The time had come for the United Nations to take decisive action against all violators of minority rights. If the Governments of Turkey and Albania wished to be part of the civilized world, they had an obligation to respect and promote the rights of their people, especially the rights of minorities.

36. Mr. DIENG (International Commission of Jurists - ICJ) noted that on 4 March 1996 Israel had imposed a siege on the Palestinian areas in the West Bank and Gaza. Since 1993 the inhabitants of the West Bank and Gaza Strip had been living under serious restrictions on movement, which had been increased following the suicide bomb attacks on Israeli targets earlier in 1996. The closure denied Palestinians access to occupied East Jerusalem and in practice separated the north of the West Bank from the south in violation of the Israeli-Palestinian Interim Agreement.

37. Israel claimed that the restrictive measures were taken to prevent further attacks, but their drastic and wide-ranging impact could only be seen as a form of collective punishment directed against the civilian population as a whole. They were also discriminatory, since Israeli citizens continued to enjoy freedom of movement.

38. According to information provided by Palestinian and Israeli human rights groups, army roadblocks had caused the deaths of at least four Palestinian adults and five infants. The closure and restriction of movement had practically paralysed the health sector of the Palestinian community, while the immediate effect was that 70,000 Palestinian workers had lost their jobs in Israel. Between March and August, the Israeli Government had allowed a few thousand workers to return to their jobs, leaving the rest idle with no viable source of income. Moreover, since the Palestinian industrial sector depended

heavily on Israeli supplies of raw material, machinery and fuel, the siege of the territories had produced a severe interruption of activity. The agricultural and fisheries sectors had also suffered tremendously. Education had been severely disrupted because students and teachers could not reach their schools, while the entire Bir Ziet University community of 5,000 persons had been prevented from entering the University campus and 371 students had been arrested.

39. The use of collective punishment was outlawed by international law. Even during difficult times, States must continue to safeguard the rule of law. The closure of the West Bank and Gaza Strip not only violated the right to freedom of movement, but also the right to work and the right to education of thousands of innocent civilians.

40. Mrs. GUILLET (International Federation of Human Rights - FIDH) said that FIDH was very concerned about the situation of foreigners and asylum-seekers in Europe. In France, for example, a recent FIDH mission had found that the difficulties facing asylum-seekers constituted serious violations of international refugee law, while appeals procedures against deportation were largely controlled by the administrative authorities themselves. Such practices were unworthy of a State subject to the rule of law. Officially, the Government claimed that it was combating policies advocated by the extreme right and was promoting the integration of foreigners, but in actual fact the various legislative and administrative measures which it had adopted supported xenophobia and turned foreigners into scapegoats for all the social and economic ills of France. FIDH had called for effective respect of the right to seek asylum, of the principle of non-refoulement and of the right to a fair hearing, for protection for Algerian citizens, for respect for international standards in the treatment of detainees, and also for respect for the rights of the defence, for the principle of judicial independence, and for a reconsideration of collective deportations of foreigners and of inhuman bureaucratic practices. FIDH called upon the French authorities and those of all other European States that did not respect their international commitments on the subject to put an end to such serious violations of essential freedoms and basic rights guaranteed by major international and European human rights instruments.

41. Ms. ALI (Afro-Asian People's Solidarity Organization), speaking on agenda item 20, said that despite the recent rapid expansion of global mass communications, ethnic divisions had actually become more pronounced. While science, technology, communications and trade were seeking to create a global family, cultural and religious factors were giving the concepts of narrow regionalization and ethnocentrism a new lease of life. It was increasingly evident that decades of world stability were threatened by growing demands for the redrawing of national borders and for governance on the basis of race, ethnicity and religion.

42. Attempts to suppress ethnic aspirations could of course be counterproductive; at the same time, the breaking up of multi-ethnic societies was not the answer. What was required was the development of political, social and cultural models that would maintain the integrity of States while giving full scope for the flowering of different cultural and religious

beliefs and ethnic identities. That was the very essence of democracy - the practical application of which by Governments unfortunately left a great deal to be desired.

43. The break-up of States and a redrawing of national boundaries would in fact be the worst possible solution, for it would lead to massive transfers of population of the sort currently seen in the former Yugoslavia. Many of the current conflicts in the Indian subcontinent could be traced back to the partition of British India, where past resentments had evolved, via anger and activism, into terrorism. Where ethnic and religious groups succeeded in carving out a separate entity, they tended to perceive their neighbours as enemies, thereby perpetuating the cycle of suspicion and tension.

44. What was frightening in the case of Pakistan was the hold fundamentalists were beginning to exercise through education, mass mobilization of armed volunteers and the creation of private armies. Though the democratic process denied them a substantial stake in power, their manipulation of religion made devout Muslims fearful of opposing their designs. Those who resisted faced the wrath of their armed minions. The call to jihad was an everyday occurrence; its theatre any progressive or democratic society, including those sectors of its own society that subscribed to a progressive and tolerant ideology.

45. Communities must realize that the world was made up of different races, religions, cultures and ethnic groups, and that progress could be secured only in a climate of tolerance and cooperation. Political structures must thus have the necessary flexibility and maturity to respond to diverse aspirations. Self-governance within the overall structures of composite nationhood, often given the name "internal autonomy", was one way forward. States that could adopt political structures compatible with a heterogeneous society were likely to prove the most peaceful and productive. Democracy had within it the wherewithal to provide such governance; what was needed was for States to understand the meaning of democracy and then to put it into practice.

46. Mr. PANDITA (African Commission of Health and Human Rights Promoters), speaking on agenda item 17, said it was encouraging to note that the Sub-Commission was aware of the new forms of discrimination that had recently surfaced in the Balkans, Rwanda, Burundi, Somalia, the Sudan, and Jammu and Kashmir. Social scientists were still debating the extent to which the resurgence of nationalism, sub-nationalism and ethnic, religious and other identities was a reaction to the process of globalization. It could be argued that assertions of identity were a defence against the negative effects of that process. In many cases, however, that defence mechanism was gradually superseded by the local majority group's aspirations for dominance and power, which often invoked religious factors. Matters were made worse when, in pursuit of their own objectives, external entrepreneurs extended moral and material support to propagation of the concepts of territorial purity and religious and cultural exclusivity.

47. He drew attention to the situation of the Pandit religious minority in Jammu and Kashmir. The national majority within India as a whole constituted a vulnerable numerical minority in the Kashmir region, while the minority group within India constituted a majority in Kashmir. Extremists within the

latter group had embarked on a campaign of ethnic cleansing and other violations of the human rights of Kashmir's religious minority. The exclusion of that minority from the purview of India's Minority Commission was a sad reflection on policy makers. Thanks to the local majority's unbridled aspiration for power and dominance, the Pandit minority had begun to be depicted as an enemy and deprived of any influence in the nation-building process. Protection of the rights of the Pandits was further complicated by the fact that their community was thinly dispersed throughout the Kashmir Valley. A safe zone should be provided in their homeland, in which they could be rehabilitated.

48. Mr. EGUZ (Observer for Turkey), speaking on agenda item 5, said that racism was the worst social and political scourge of modern times. His delegation thus welcomed the efforts made within the United Nations human rights system to secure its eradication. Unfortunately those efforts had not been translated into effective action, as could be seen from the fact that the United Nations had had to declare a Third Decade to Combat Racism and Racial Discrimination in view of the disappointing results yielded by the first two Decades. The need to combat racism was assuming ever greater urgency. His delegation therefore welcomed the proposals contained in Mr. Eide's working paper (E/CN.4/Sub.2/1996/30). As was pointed out in paragraph 20 of that document, the main factor in racial discrimination continued to be skin colour. However, mechanisms must be developed to detect the subtler forms racism was assuming, for instance in the labour market, or under the guise of "cultural relativism".

49. Instances of racism reported in the media were only the tip of the iceberg, for such incidents were usually not reported by the public. More alarmingly, public opinion was becoming inured to reports of instances of racially motivated arson or desecration of cemeteries, which in any case were no longer regarded as newsworthy.

50. Racism must be fought on two fronts. First, ways and means must be found to eradicate existing racism and assist its victims; second, the environment in which racism flourished must be eliminated, so that future generations could be freed from the fear of racist attacks. Stricter legislation was called for, together with harsher disciplinary measures against government agents found to be involved in racist activities. The idea of establishing a voluntary fund to assist and rehabilitate victims of racism also merited consideration. But the most effective weapon was education: information about the evils of racism must be incorporated in schools' curricula and in professional training, particularly in the case of personnel (such as law enforcement and customs officials) who frequently encountered foreigners in the discharge of their duties.

51. Every country had something to contribute to the fight against racism - not only those that were trying to eliminate it from their societies, but also those, like Turkey, that were concerned at the plight of their own citizens abroad. The United Nations should thus take the lead in bringing together all the relevant actors. Besides ensuring that adequate resources were made available to the Special Rapporteur, it could best contribute by organizing national and regional events, and, above all, by convening a world conference on racism, to be followed by technical meetings. It was to be hoped that such

a conference could be held before the turn of the century. Meanwhile, the Sub-Commission must build on its own past initiatives in the field of combating racism. Mr. Eide's working paper was a harbinger of future fruitful contributions in that regard.

52. Ms. DUDA (Observer for Poland), speaking on agenda item 5, said she wished to foster optimism by citing an example of a problem involving minorities that had been successfully solved despite initial public reluctance and attempts to politicize it. Her story should be considered against the background of the violence that had traditionally characterized relations between the Polish and Ukrainian communities down the ages.

53. An elementary school had recently been built in an area of Poland inhabited by a large Ukrainian minority. As the building neared completion, the authorities had realized that the school would be too large for the Polish community, and too costly for it to maintain. Meanwhile, the local Ukrainian community had been looking for new premises for its own secondary school. Initial talks between the two communities had culminated in an agreement that they would share the new school premises. However, historical prejudices had soon been revived by fears of recrimination regarding the ownership of the school premises. After many months of negotiations under the auspices of the Polish Parliamentary Commission on Minorities it had finally been agreed that the new school would open its doors to both communities at the start of the 1996/97 school year. It was to be hoped that the ghosts of the past had thus finally been exorcized.

54. The CHAIRMAN said it was heartening to hear, for once, an account of a positive experience. No doubt real life afforded many examples of such experiences. Alas, all too few of them were brought to the attention of the Sub-Commission.

The meeting rose at 6 p.m.

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

Forty-eighth session

Held at the Palais des Nations, Geneva,
on Wednesday, 14 August 1996, at 10 a.m.

Chairman: Mr. EIDE

later: Mr. LINDGREN ALVES

later: Mr. EIDE

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ELIMINATION OF RACIAL DISCRIMINATION

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FREEDOM OF MOVEMENT:

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COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO RACISM, XENOPHOBIA, MINORITIES AND MIGRANT WORKERS (agenda item 20) (continued) (E/CN.4/Sub.2/1996/30)

1. Mr. BAUMANIS (Observer for Latvia), speaking on agenda item 17, said that the proportion of non-Latvians in Latvia had risen from 25 per cent in 1939 to 45 per cent in 1996 due to the USSR's Russification policy. Latvia had acceded to all the major human rights instruments and was striving to integrate the populations transferred to its territory during the Soviet occupation, protecting their rights under the Act on Unrestricted Development and the Right to Cultural Autonomy of Nationalities and Ethnic Groups in Latvia.

2. Two bodies had recently been created to protect and promote the rights of all residents in Latvia: the National Human Rights Office and the Consultative Council on Nationalities. A Department of Nationalities had been operating within the Ministry of Justice since 1992 with a view to promoting dialogue with the various ethnic groups. More than 20 such groups had formed their own national cultural societies or associations and they received financial and other support from the State.

3. With a view to facilitating social integration of populations of foreign origin, the Government, in cooperation with UNDP, had drafted a National Programme for Latvian Language Training according to which 50 per cent of the subjects in minority schools would be taught through the medium of Latvian within the next 10 years, thus ensuring that school-leavers would be able to continue their education in Latvia.

4. The Languages Act provided for the right of members of ethnic minorities to be educated in their native tongue. There were currently eight State-funded schools where lessons were conducted in Polish, Hebrew, Russian, Romanian, Ukrainian, Estonian, Lithuanian and Belorusian respectively. There were also 72 classes where the medium of instruction was Russian. Such measures testified to the willingness of the Latvian Government to protect the rights of all residents, as well as the autonomy of minorities and ethnic groups. Latvia pledged its full cooperation with the Sub-Commission's activities in support of minorities.

5. Mr. BEREZNY (Observer for the Russian Federation), speaking on agenda items 17 and 20, said that discrimination on the grounds of nationality, religion, culture or language, which was practised mainly against minorities, nowadays assumed more covert and subtle forms. The creation of a Working

Group to promote the rights of persons belonging to minorities represented the first real step towards initiating a dialogue between States and the representatives of minorities. The Working Group should establish close cooperation with treaty bodies and regularly exchange information with the High Commissioner for National Minorities of the OSCE.

6. Referring to the working paper presented by Mr. Eide (E/CN.4/Sub.2/1996/30), the Russian Federation drew attention to the situation of stateless persons in countries which had been formed as a result of the geopolitical upheavals of the previous decade. It was particularly concerned about the situation of the Russian Diaspora in newly independent States such as Estonia and Latvia. The Citizenship Act adopted in Estonia in January 1995 had made some 200,000 persons of Russian origin stateless, the first instance in Europe of a third of a country's residents finding themselves deprived of citizenship. The Russian Federation categorically rejected the theory that the Estonian policy on citizenship was aimed at redressing the consequences of "occupation" and "colonization". Rather, Estonia was seeking, in the most inhumane fashion imaginable, to eliminate the consequences of the natural movements of labour in the former USSR. The decision to postpone until 30 November the expiry date of Soviet passports which had been taken as a result of international pressure, was a mere palliative. Estonia was taking no steps to resolve the problem of the Russian-speaking minority in a durable and constructive fashion.

7. In Latvia, nearly 900,000 Russian speakers were stateless - 34 per cent of the total population. The Government had once again bowed to international pressure and relaxed its legislation to some degree, without however resolving the problem. Latvia could not claim to be progressing towards a more integrated society until it had proved its willingness to grant citizenship to all non-Latvians, without placing insurmountable obstacles in the way of their naturalization and without pressing them to renounce their own national identity.

8. Extreme nationalism, xenophobia and discrimination were serious obstacles to strengthening the protection of human rights. He suggested that the interrelationship between those various problems be the subject of one of the Sub-Commission's forthcoming studies. He deemed it inadmissible that NGOs, such as Pax Christi International, should use the Sub-Commission as a forum for promulgating ideas in justification of separatism and terrorism, so completely contrary to the principle of territorial integrity of sovereign States.

9. Mrs. JANJUA (Observer for Pakistan), speaking on agenda item 17, said that the Constitution of Pakistan protected the rights and interests of minorities and endeavoured to ensure that they did not fall prey to any discrimination, religious or other. A National Commission for Minorities had been set up with that aim.

10. Being determined to promote religious tolerance and harmony, the Government was working hard to control the activities of armed groups which were directed against all those who did not share their extremist religious beliefs. Pakistan denounced terrorism in all its manifestations, but had only recently been the target of foreign-sponsored terrorist acts. The perpetrators of the attacks on the airport and a hospital in Lahore had publicly revealed the identity of their foreign sponsor.

11. She recalled that many Western countries possessed legislation similar to Pakistan's Blasphemy Act. The Act had, however, undergone several amendments and various administrative measures had been introduced to ensure it was not abused.

12. Responding to allegations by by Indian-sponsored non-governmental organizations (NGOs), her delegation wished to mention the hundreds of

thousands of innocent Muslims killed by Hindu fanatics since independence. An extremist Hindu party now constituted the largest political party in India, and one of its promises at the recent elections had been to destroy the mosques. According to the International Herald Tribune of 4 October 1995, Mr. Bal Thackeray, member of the coalition in power in the State of Maharashtra, referring to the rape of Kashmiri women, had declared that the Indian forces had been right to rape them. What, also, was one to think of a society where a five-year-old's eyes were gorged out when she dared to drink water from a container belonging to a higher-caste teacher?

13. Mrs. PALALA (Observer for the Philippines), speaking on agenda items 18 (a) and 20, said that for many years now, the Philippine Government had been tackling the problems encountered by Filipinos working abroad, for example by introducing measures to reduce the numbers in the "vulnerable" sectors (entertainment, domestic workers, etc.) seeking work overseas, by setting up Filipino welfare centres in host countries and by ensuring that only qualified recruiters were authorized to explore the Filipino job market. The Migrant Workers Act No. 8042 of 1995 imposed stiff penalties on those involved in illegal recruitment.

14. In view of the xenophobia affecting migrant workers, her delegation enjoined those States which had not already done so to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as the relevant ILO conventions. A United Nations Expert Group Meeting had been held in Manila in May 1996 on the issue of violence against female migrant workers.

15. With a view to improving the living conditions of Filipino migrant workers, the Philippines had also signed agreements with host countries on working conditions, the granting of visas and double taxation. The Philippine

Government hoped to sign other such agreements with countries which were host to large numbers of Filipino workers. In conclusion, she commended the Sub-Commission on its work in promoting human rights.

16. Mrs. DAES, speaking on item 17, said that at a time when intolerance and discrimination were on the upsurge, in Europe too, the millions of people still suffering from such evils would only welcome the adoption of the Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities by the United Nations General Assembly. It was now a question of translating it into action.

17. The Declaration further enhanced article 27 of the International Covenant on Civil and Political Rights in that it obliged States not only to respect the cultural, religious and linguistic identity of minorities, but also to actively promote the strengthening of that identity by affording official support at a national level to the development of minority institutions. The nature and extent of the support had been left vague, but it was to be hoped that it would be increased with time. Moreover, the Declaration progressed a stage further than the two Covenants with regard to international cooperation, especially in the form of financial aid and technical assistance, in that it expressly stated that "the specialized agencies and other organizations of the United Nations system" must contribute to the full realization of the rights and principles set forth in the Declaration within their respective fields of competence, and that States "should" ensure that international cooperation projects were compatible with the interests and rights of persons belonging to minorities. As she saw it, those rights must be taken into consideration in all fields of international cooperation.

18. The Declaration approached the realization of rights in a progessive manner, emphasizing development and the responsibility on the part of the international community for ensuring that development strengthened enjoyment of the basic rights of minorities. It represented the first application of the Declaration on the Right to Development to a specific field of action. Even in relatively wealthy countries, minorities would not achieve genuine equality unless they were made the first to benefit from development. Unfortunately, that goal had not been actively pursued due to a decline in the resources devoted to development in the United Nations system, a lack of experience in the field of minority rights in United Nations operational programmes, an insufficiency of human resources available to the most competent United Nations bodies, and a lack of institutional coordination with the Commission on Human Rights. Above all, however, there appeared to be a lack of genuine initiatives to approach the field of development in the light of the Declaration. In her view, the Declaration envisaged a contribution on the part of the entire United Nations system to the comprehensive development of minorities, not merely in the form of legal advice to Governments. She hoped that the Working Group would systematically study initiatives in the field of development which involved minorities.

19. It was true that some States still felt threatened by minorities and continued to resist effective international cooperation, particularly in the field of development. A system for protecting European minorities groups had, however, already existed under the League of Nations. Contrary to the theories of some lawyers, that system had not been given a proper chance to succeed as a result of the appalling depression and the social revolutions which had shaken Europe - revolutions in which the minorities had played no part. The adoption of the Declaration had reflected the important changes which had occurred since the end of the cold war, especially regarding the sharing and decentralization of power within States. Furthermore, the Declaration issued from a new spirit of social realism in the field of human rights which was far removed from the ossified ideological theories of the past. The Secretary-General had personally endorsed paragraph 18 of the Agenda for Peace. Effective implementation of the Declaration would require

closer cooperation between all competent United Nations organs on all matters affecting minority rights, on the collection and distribution of data on the treatment of minorities in different parts of the world for the purposes of the relevant analyses and studies conducted within the system, and the adoption of an adequate system for disseminating information from specialized agencies, governments and NGOs to the competent Secretariat offices entrusted with implementing early warning procedures and preventive diplomatic efforts. The Department of Public Information should also contribute by distributing educational materials to promote, protect and implement the Declaration. Since the minorities issue often proved crucial to peacemaking, peacekeeping and peace-building, all involved should be made familiar with the Declaration's provisions.

20. The effective implementation of the Declaration would nevertheless depend above all on the work to be carried out by the Working Group on Minorities. She congratulated its members, expressing special thanks to Mr. Ali Khan for his working paper on domicile and residence concerning minorities and migrant groups (E/CN.4/Sub.2/AC.5/1996/WP.4/Add.1) and to Mr. Chernichenko for his working paper on the definition of minorities (E/CN.4/Sub.2/AC.5/1996/WP.1). She suggested that the latter should be asked to prepare a second working paper on the concept of "minority", to take into account the discussion held in the Sub-Commission and any relevant documents and studies.

21. She supported the conclusions and recommendations of the Working Group's reports on its two sessions (E/CN.4/Sub.2/1996/2 and 28). Like all the Sub-Commission's other Working Groups, it should continue to submit an annual report to the Sub-Commission. The latter should therefore recommend that the Economic and Social Council should extend the Group's mandate until the end of 1999. She considered that missions or visits to countries by the Chairperson or members of the Working Group should only be undertaken at the invitation or request of the Government of the State concerned. Constructive dialogue between Governments and minorities undoubtedly contributed to the peaceful resolution of conflicts between all parties concerned.

22. Proceeding to the issue raised by agenda item 18 (b), Mrs. Daes expressed her regret over the Special Rapporteur's failure to submit his final report at the forty-ninth session. In conclusion, she endorsed the proposal made by the representative of the Office of the United Nations High Commissioner for Refugees to organize a seminar to examine all aspects of the human rights issue in the context of population shifts.

23. The CHAIRMAN invited Government observers to exercise their right of reply if they so wished.

24. Mr. GWAM (Observer for Nigeria) said that the allegations of human rights violations made against Nigeria by the International Association of Educators for World Peace amounted to pure mischief. That NGO had alleged that the proceeds from the exploitation of oil on Ogoni territory since 1958 had been used to develop other parts of Nigeria, to the detriment of the Ogoni people. That was false. The Nigerian Government had, on the contrary, introduced various measures to ensure the enjoyment of economic, social and cultural rights, as well as the civil and political rights of the populations of oil-producing zones such as Ogoniland. To that end, the Oil Mineral Producing Area Development Commission (OMPADEC) devoted 3 per cent of the country's oil revenue to researching solutions to the ecological problems in areas such as the Ogoni region. Oil was now produced in 10 states within the Federation, including Rivers State of which the Ogoni area was a part. The NGO in question had claimed that the proceeds from crude oil production in that region amounted to $30 billion, a surprising figure considering that those proceeds represented less than 3 per cent of the nation's total oil revenue. Furthermore, the federal government had invested in numerous

projects in Rivers State, including two universities and numerous higher educational establishments.

25. The second allegation had been that the Nigerian Government had introduced military decrees to restrict the fundamental rights of the Ogoni people and that a special tribunal had been set up to try Ogoni activists. The nine Ogoni activists, including Chief Ken Sara-Wima, had been judged under Civil Disturbances Decree No. 2 of 1987 which had been introduced three years prior to the formation of MOSOP. That was the seventh judgement under the decree.

26. Another NGO had accused the Nigerian Government of having violated the rights of Nigerian trade unionists, claiming that the unionist Mr. Kokori had been detained for trade union activities, whereas, in actual fact, he was being tried for an unrelated criminal offence. The NGO concerned could refer for further details to the Nigerian delegation's statement to the eighty-second session of the International Labour Conference held in Geneva in June 1996.

27. He appealed to NGOs to support and encourage his Government's efforts to ensure the promotion, protection and enjoyment of the human rights of all Nigerians, instead of making groundless criticisms based on mischief.

28. Mr. GJONEJ (Observer for Albania) referred to a statement by the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities. Unlike the majority of NGOs, it had sought to communicate erroneous information to the Sub-Commission instead of contributing constructively to its work. The allegations it had made involved a gross distortion of reality, and the Albanian delegation was willing to provide the representative of that NGO with precise information on the situation of the Greek minority in Albania. The Albanian Government had been involved in negotiations with the Greek Government on that issue, and

they boded well for the future. Finally, regretting the aggressive tone adopted by the NGO towards his delegation, he called upon all NGOs to respect certain ethical standards when addressing the Sub-Commission.

29. Mrs. TALVET (Observer for Estonia) said she wished to correct some information presented by a previous speaker concerning citizenship issues in Estonia.

30. Firstly, she pointed out that Estonia was not a newly independent State since the Republic of Estonia had dated from 1918. Estonia had restored its independence on 20 August 1991, re-enacting its laws, including those concerning citizenship. A democratic State, it had accorded all inhabitants the possibility of exercising their right to determine their own citizenship. Moreover, the new law on citizenship, which had been adopted in 1991 and which took account of the provisions of international instruments to which Estonia was a party, ensured that any individual who had been legally resident in Estonia for five years and had some knowledge of Estonian and the Estonian Constitution could apply for Estonian citizenship. That provision applied to all those who had lived in Estonia before it regained its independence.

31. The internal passport of the Former Soviet Union had never been recognized as a document for international travel. Estonia had promoted the free movement of foreigners by issuing them with temporary travel documents and foreigners' passports. Citizens of the Russian Federation resident in Estonia who had not yet been issued with travel documents by the Russian authorities had also benefited.

32. The CHAIRPERSON declared consideration of agenda items 5, 17, 18, and 20 closed.

CONTEMPORARY FORMS OF SLAVERY (agenda item 15) (E/CN.4/Sub.2/1996/24, 25 and Add.1, 26; E/CN.4/Sub.2/1996/NGO/19; E/CN.4/1996/100)

33. Mrs. WARZAZI (Chairman-Rapporteur of the Working Group on Contemporary Forms of Slavery) introduced the report of the Working Group on its twenty-first session from 17 to 26 June 1996 (E/CN.4/Sub.2/1996/24), in which relevant NGOs, representatives of United Nations specialized agencies and bodies and a small number of observers from Member States had participated.

34. Generally speaking, child prostitution was becoming increasingly widespread and new countries were opening up to sexual tourism. Only a few Western Governments had introduced legislation to combat that practice. The Working Group condemned child pornography and urged all States to introduce the necessary legislative measures to protect minors. Concerned that there had been only a slight increase in the number of States ratifying the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, it had discussed measures which could be taken and hoped that the dialogue which had already been initiated during previous sessions with the countries which had not yet ratified the Convention would continue.

35. The Working Group reiterated its thanks to the Anti-Slavery Society for providing it with a note on various traditional or more modern slavery-like practices which called for urgent governmental action. Several suggestions had been made to facilitate the application of conventions on slavery, including the drafting of a questionnaire to assist countries in reporting on their implementation of the conventions, and the creation of a follow-up procedure for the 1949 Convention.

36. The financial difficulties of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery had been repeatedly raised and the observer for the Board of Trustees had asked the members of the Working Group to devise a solution with a view to saving the Fund from indifference and stagnation. At

the proposal of an expert, the Group had thus decided to include a paragraph relating to the Fund in the draft resolution suggesting that the Secretary-General might entrust the Board's terms of reference to the Working Group with a view to greater efficiency and a reduction in operating expenses. It was for the members of the Sub-Commission to assess the desirability of that suggestion.

37. She then summarized the discussion on the suppression of the traffic in persons and of the exploitation of the prostitution of others (paras. 35-43 of the report), from which it had emerged that prostitution should no longer be considered a necessary evil and that it was a social phenomenon linked to other problems such as drugs, alcoholism, delinquency, pornography, AIDS, and poverty in general. The International Abolitionist Federation had quoted the recommendations of the regional seminar against sexual exploitation of children and adolescents in the Americas held at Brasilia in April 1996 at which participants had suggested the creation of a system within the United Nations to follow up plans to put an end to the sexual exploitation of children and adolescents in that region.

38. Regarding illegal adoptions (paras. 44-49 of the report), the International Federation of University Women had denounced illegal adoption of children by paedophiles under cover of humanitarian associations, regretting that article 21, paragraphs (b) and (d), of the Convention on the Rights of the Child had not been revised to prevent adoption from being used for gain. The Federation had expressed the hope that the Working Group would be more closely involved in the work of the Working Group of the Commission on Human Rights responsible for drafting an optional protocol to the Convention on the Rights of the Child concerning the sale of children, child prostitution and child pornography. The Working Group had opted to reword the agenda item and refer henceforth to illegal or pseudo-legal adoptions.

39. Regarding traffic in human organs and tissues (paras. 50 and 51 of the report), the particular case of women forced to have abortions so that the tissues of the aborted infants could be used for transplants had been raised. The Working Group was awaiting the report requested of the Secretary-General by the Commission on Human Rights in its resolution 1996/61 on the reliability of allegations regarding the removal of organs and tissues of children and adults for commercial purposes.

40. Government observers had enumerated the legislative, administrative, information and other measures adopted in their countries to control bonded labour and child labour (paras. 52-65 of the report). However, the observer for the Board of Trustees of the Voluntary Trust Fund had indicated that their implementation was fraught with difficulties. According to one expert, the employment of infants should be prohibited and strict conditions laid down for children compelled to work. It was again noted that most of those problems stemmed from poverty. The Working Group's attention had been drawn to a report on child labour submitted by the ILO to the Ministerial Conference on the subject.

41. Forced labour (paras. 66-70 of the report) and migrant worker issues (paras. 71-76) had also been examined. The extreme vulnerability of migrant workers in certain Gulf and European countries had been emphasized and it had been noted that employers were confiscating employees' passports, especially those of women workers, forcing them into a situation of near slavery.

42. With regard to the activities of the Special Rapporteur on the sale of children, child prostitution and child pornography (paras. 77-85), who had unfortunately not participated in the Group's work, it had been noted that despite all the measures taken by Governments, children were still suffering abuse and sexual exploitation, linked particularly to sexual tourism. Attention had been drawn to legislation adopted by some countries under which

sexual tourists could be prosecuted for acts committed abroad, as well as to the use of the Internet for sexual tourism.

43. The activities of the Special Rapporteur on violence against women (paras. 86-95) had provoked a debate on the issue of "comfort women". Victims had testified, applauded the report of the Special Rapporteur and requested sincere apologies and fair compensation from the Japanese Government. They had refused compensation offered by the Asian Women's Fund financed by private capital. The observer for Japan had recalled that his Government had repeatedly expressed remorse and apologized to all the victims, pointing out that complaints concerning the war had been settled in accordance with international agreements. He asserted that the Asian Women's Fund had been created as a means for all Japanese to express their remorse to all the victims. The observer for the Republic of Korea had commended the work of the Special Rapporteur on violence against women and welcomed the appointment of Ms. Chavez as Special Rapporteur for conducting an in-depth study on systematic rape, sexual slavery and slavery-like practices during wartime.

44. The debate on other matters, including early marriages and detained juveniles (paras. 96-109), had dealt, inter alia, with the reports on tens of thousands of children being seized from their families by the army of the Islamic National Front and taken to northern Sudan as slaves. Despite continuing to deny the existence of slavery in the Sudan, the Sudanese Government had set up a special committee to investigate the allegations. The organization SOS-Slavery had also pointed out that the Government of Mauritania had still not adopted any text to give effect to the 1981 ordinance abolishing slavery, and the observer for the International Abolitionist Federation in Brazil had made a very informative statement on slavery in Brazil. Two NGOs had also raised the problem of sexual abuse of children in general, such as within Asian communities living in the United Kingdom. The Working Group had been called upon to think about harmonizing definitions of paedophilia.

45. The Working Group's meetings had been conducted in a courteous atmosphere and a spirit of openness permitting NGOs and Governments to voice their opinions. It was to be regretted, however, that so few NGOs and Government observers had been able to follow the Group's work because of other important international meetings being held concurrently and that some specialized agencies, despite being directly concerned, had not felt bound to participate. It was thus to be hoped that the dates of the Working Group's twenty-second session would not conflict with the dates envisaged for other conferences. She thanked the Secretariat for its assistance and cooperation during the Group's session.

46. In conclusion, speaking in her personal capacity, she suggested that NGOs should conduct special investigations to determine whether allegations made by the researcher Dominique Torres in "Slaves" (Esclaves, 1995) concerning the existence of multinational slavery organizations which kept their victims in appalling conditions in European capitals, were founded.

47. Mrs. McDOUGALL, introducing the preliminary report on an in-depth study of systematic rape, sexual slavery, and slavery-like practices during periods of armed conflict (E/CN.4/Sub.2/1996/26) on behalf of Ms. Chavez, Special Rapporteur on the issue, said that the study provided tentative definitions of the terms "rape", "systematic rape" and "sexual slavery". Systematic rape was used as an instrument of torture and of war, in violation both of humanitarian and human rights law. Moreover, forced pregnancy had been used as a means of ethnic cleansing. There were examples of such practices throughout history, such as during the two World Wars when German soldiers had used rape as a weapon to terrorize the occupied population, and the Japanese military had forcibly conscripted 200,000 women into "comfort stations". At the eighty-third session of the International Labour Conference, the Committee of Experts on the Application of Conventions and Recommendations had estimated

that gross human rights violations, including sexual abuse of women in the "comfort stations", had fallen within the prohibitions of the Forced Labour Convention and that such activities constituted a manifestation of slavery which violated that Convention. More recently, systematic rape and sexual slavery had also been practised in war zones, such as the former Yugoslavia, Kuwait, Rwanda, Haiti, Pakistan, Peru and Liberia.

48. The study discussed international norms prohibiting systematic rape and sexual slavery during wartime. It needed to be emphasized that rape as an instrument of war was increasingly being considered a war crime, if not a crime against humanity. The study also examined the issue of State responsibility under international human rights law and international humanitarian law, as well as the individual responsibility of the perpetrators of such acts. There were several international forums competent to examine charges of sexual violence and exploitation, including systematic rape and sexual slavery, or to prosecute charges, including the International Court of Justice, the international criminal tribunals for the former Yugoslavia and Rwanda and specialized war crimes tribunals such as those at Nürnberg and Tokyo. Offenders could also be tried by national, military or civil tribunals. The report recognized that reparations, including restitution, compensation and rehabilitation, must be accorded to victims of systematic rape and sexual slavery. Compensation should be provided for any economically assessable injury.

49. There was a substantive body of international norms relating to systematic rape, sexual slavery and slavery-like practices during wartime, including internal armed conflict; however, it must be ascertained to what extent those norms could be broadly disseminated, used to prevent new violations, applied to past violations and invoked by victims to obtain remedies. The preliminary information at the Special Rapporteur's disposal concerning the high incidence of such crimes pointed to the need to continue to address such an important issue.

50. Mr. HATANO said he found Ms. Chavez's preliminary report extremely interesting, but hoped that she would clarify two important points in her final report.

51. In paragraph 29 of the report, the Special Rapporteur cited ILO Convention No. 29 concerning Forced Labour as one of the relevant international instruments. However, article 2 of that Convention did not include "any work or service exacted ... in the event of war" under forced or compulsory labour. He therefore wondered to what extent that Convention could be considered to be a relevant international instrument in the case of systematic rape during wartime and how the Committee of Experts justified applying that Convention to the case in point. Furthermore, it would be necessary to ascertain whether a State had in the past ever assumed responsibility for cases of systematic rape, by virtue either of a treaty or of customary international law, and had compensated the victims.

52. Mr. Hatano raised those two questions from the point of view of positive law and was not, of course, opposed to the elaboration of new rules of international law concerning the issue. Confirming the existence or non-existence of applicable standards of international law at a given time did, however, remain a prerequisite for any consideration of the desirable development of international law in the field.

53. Mr. Lindgren Alves took the Chair.

54. Mr. YIMER said he found the report on systematic rape, sexual slavery and slavery-like practices during periods of armed conflict to be of considerable importance in that it provided an in-depth analysis of applicable international law and State responsibility in that area. He endorsed the conclusions and recommendations of the Special Rapporteur in paragraph 86 ff

of her report, agreeing that it was necessary to examine to what extent the relevant international standards could be disseminated broadly, used to prevent further violations, applied to past misconduct and invoked to provide remedies for victims. He hoped that a study of such issues would form a central part of the Special Rapporteur's final report.

55. Mrs. PARES (Pax Romana) drew attention to the fact that, at the beginning of 1996, a child prostitution network had been dismantled in southern Spain and that socially respected individuals had been implicated in the scandal. The private clubs involved had been closed down, but the problem persisted and the authorities, some members of which had been compromised by the affair and were currently free on bail, did not seem inclined to examine the matter seriously.

56. Slaves and sexual workers were also to be found in India, where girls were frequently sold by auction once they reached puberty. In Australia, on the other hand, the authorities had implemented measures to criminalize sexual tourism carried out by Australian citizens abroad.

57. Pax Romana was also very concerned by the problem of sexual child abuse both within and outside the family. According to various studies conducted in developed countries in Europe and North America, an estimated 15 to 20 per cent of children were victims of sexual abuse. The gravity of the problem seemed to require urgent action. It was not merely a local or family problem, but a question of flagrant abuse of human rights. All manifestations of sexual violence against children were repugnant and had long-term repercussions on victims, including depression, anxiety, isolation, delinquency and prostitution.

58. Pax Romana thus requested the members of the Sub-Commission to take steps to ensure that child abuse, which often resulted in contemporary forms of slavery, was included in the programme of action for the prevention of traffick in persons and the exploitation of the prostitution of others, adopted by the Commission in its resolution 1996/61.

59. Mr. EIBNER (Christian Solidarity International) said that, in the Sudan, a country which had ratified the Slavery Convention almost 40 years previously, slavery was still thriving, actively promoted by the extremist Islamic National Front regime in power. Christian Solidarity International was basing its evidence on the testimony of people directly affected by slavery which it had collected during the four visits it had made to the country since the spring of 1995. Slavery was just one facet of the Government's policy of genocide against those resisting its efforts to transform the country into a totalitarian State, a policy which had already caused 1.5 million deaths and the displacement of over 5 million black Africans. The victims were mostly members of the Dinka and Nuba tribes.

60. Slave raids were conducted by militias belonging to the Popular Defence Force. Members of Christian Solidarity International had borne witness to the destruction of villages, the slaughtering of men and the looting of livestock and crops following raids. Boys were taken to tend cattle, whereas women and girls were forced to perform domestic chores and provide sexual services to their masters. Unpaid, they were often mistreated and forced to change their religious practices and assume Arab names. Christian Solidarity International cited in particular the traumatic experience of a young 13-year-old boy who had been captured during a raid on the Dinka village of Korwai in 1992. The testimony collected by Christian Solidarity International had been corroborated by other investigators, including the Special Rapporteur on the situation of human rights in the Sudan.

61. Christian Solidarity International called upon the Sub-Commission to consider the recommendations set forth in its reports, and made a new appeal to the High Commissioner for Human Rights, requesting him to act energeticaly

and intervene personally with the Government of the Sudan to secure the release and return home of 8-year-old Abuk Kwany, enslaved to Ahmed Ahmed at Naykata, and of all other slaves known to Christian Solidarity International

and other human rights organizations. His organization also stressed the necessity of promoting unfettered access by human rights monitors to all parts of the Sudan under the direction of the Special Rapporteur.

62. Mr. WHITEHOUSE (International Confederation of Free Trade Unions - ICFTU) said that the recent reports of the ILO Committee of Experts on the application of ILO Conventions Nos. 29 and 105 raised cases of forced labour in Burma, Peru, Brazil, the Sudan, Mauritania, Thailand, Pakistan, India, Sri Lanka and Bangladesh. Forced labour existed in numerous other countries, but countries which had not ratified those Conventions did not feature in the ILO reports. ICFTU, which had frequent recourse to the ILO procedures to initiate complaints against countries using forced labour, was currently engaged in actions against Burma and Pakistan.

63. ICFTU drew the attention of the Sub-Commission to the serious violations of human rights suffered by Palamoori migrant labourers from a particularly poor area of India who were forced to seek employment elsewhere. Construction workers at the Narmada canal in Gujarat were detained for 12 hours a day in appalling, unsanitary working conditions. Elsewhere, they were subjected to harassment and women were forced to wet-nurse their employers' children. The union defending Palamoori rights had exhausted all national channels of complaint and was relying on assistance to urge the Indian Government to ensure effective implementation of the 1976 Bonded Labour System (Abolition) Act. The trade union movement was willing to cooperate with the national authorities and the United Nations with a view to establishing monitoring systems to eradicate such inhuman practices.

64. Mr. TANAKA (International Movement against All Forms of Discrimination and Racism) said that his organization was very concerned about the increased trafficking in persons and exploitation of the prostitution of others, including the trade in women and children. Its survey and symposia on problems encountered by victims of such practices in Asia had revealed that, all too often, those persons were victims not only of traffickers, but also of the alien societies in which they found themselves and against which they had no protection from legislation. Various recommendations based on the Beijing Programme of Action had been formulated following the symposia. It had been recommended, for example, that a national reporting system on trafficking in persons and exploitation of the prostitution of others should be established to help strengthen the 1949 Convention. The reports would contain legal information and statistics and deal with the social, economic, legal and political causes of the practices. They would also document concrete measures taken by the authorities to decriminalize the victims and fight against the causes, as well as educational and training efforts. Educational programmes and media campaigns should be organized with a view to preventing the "commodification" of women for sexual purposes. All officials, including the police, immigration officers and prison officials, should receive appropriate training on victims' rights and on the need to refrain from any act of violence against them. National reports should also take such measures into account.

65. The International Movement against All Forms of Discrimination and Racism hoped that the Sub-Commission would make a priority of developing an integrated approach with a view to suppressing trafficking in persons and exploitation of the prostitution of others. Stressing the seriousness of the slavery issue, he concluded by regretting that there were currently so few participants at sessions of the Working Group on Contemporary Forms of Slavery.

66. Mrs. NEURY (Centre Europe-Tiers Monde - CETIM) gave an illustration of one of the modern manifestations of slavery which affected migrant workers and which was still tolerated, even in the vicinity of the Palais des Nations. The case was that of Ram Roop, a young Indian man who had been placed at the disposal of Mr. Barwa, Counsellor of the Mission of India to WTO, and who had lived in his household for two and a half years in conditions of slavery until being found in a pitiful state by the Geneva police on 9 April 1996. With a view to defining that modern manifestation of slavery, CETIM had devised seven criteria, all applicable to Ram Roop's case: the degree of constraint in choice of abode, the restrictions on liberty of movement, the employer's discretionary power over his employee's timetable, the lack or inadequacy of remuneration, cultural alienation, mistreatment and violation of the right to adequate food and, finally, lack of legal protection.

67. CETIM, in contact with Syndicat Sans Frontières, which was currently defending the case of 20 persons who had spent many days in Geneva in conditions of slavery in diplomats' homes, called for a revision of the Vienna Convention on Diplomatic Relations, considering the maintenance of diplomats' immunity with regard to the hiring of personnel was a serious obstacle to the efforts of the United Nations to combat modern forms of slavery. CETIM invited the Sub-Commission to familiarize itself with the document it had prepared on the child labour issue (E/CN.4/Sub.2/1996/NGO/19). It was insufferable that millions of children such as Ram should be deprived of education and any kind of play.

68. Mrs. SILWAL (International Progress Organization) said that many children in developing countries were exposed to forced labour and even prostitution. In Pakistan, for example, according to ILO, nearly 6 million children were forced to work in conditions of near slavery in order to pay debts contracted by their parents from feudal landlords. According to Anti-Slavery International, the courts and Government of Pakistan were helpless to control the terrible problem of debt-bondage. Bondage of the mind was yet another form of slavery to which children in schools run by religious fundamentalists were being exposed.

69. Poor children in developing countries, especially in South Asia, were also used for pornographic purposes, and offered for prostitution. That scandalous trade was nothing more than a new form of human colonization, patronized mainly by tourists from affluent countries. Child pornography also thrived, however, in countries where living standards were high.

70. In Pakistan, young Christian and Hindu girls were converted to Islam, and rape and violence were common. In certain other countries in the region, some girls were being forced against their wishes to marry wealthy, but far older men.

71. The sale and prostitution of children did not only have economic causes; they also resulted from a weakening of family ties due to overly abrupt economic and social changes. Such practices must be stopped, and the provisions of the Convention on the Rights of the Child applied so that future generations would not be able to accuse their predecessors of not having lifted a finger to prevent the transformation of childhood into a commercial commodity.

72. Mr. Eide resumed the Chair.

73. Mr. LITTMAN (World Federalist Movement) recalled that Mr. Biro, Special Rapporteur on the human rights situation in the Sudan, had declared, when introducing his third report to the Commission on Human Rights the previous April, that the reported descriptions of slavery-like practices in the Sudan, corroborated by a wide range of independent sources, had proved to be well-founded, despite the repeated denials by the Sudanese Government. After being refused the right of entry to the Sudan in February 1994 and threatened by a Sudanese newspaper, the Special Rapporteur had finally been authorized to visit the country from 1 to 7 August 1996. On the very day of his departure, the government newspaper Al-Sudan Al-Hadith had claimed that he had stated that there was no existence of practices of slavery in the Sudan, a remark which had then been carried by Reuters. Mr. Biro had made a strong rebuttal two days later, saying that for the past three years he had constantly reported on slavery, servitude and forced labour taking place in several parts of the Sudan, perpetrated by members of the Sudanese army and paramilitary groups fighting with the army in southern Sudan, and that he had just recently received further reports on similar practices. Tragically, what was going on in the Sudan was reminiscent of earlier centuries. Slavery was one of the causes of the war, as well as one of its consequences. It was outlawed by the International Bill of Human Rights, to which the Sudan had subscribed, and by Sudanese law itself. The World Federalist Movement called upon the Sub-Commission in its resolution on the Sudan to once again firmly condemn slavery as described by the Working Group on Contemporary Forms of Slavery, which had denounced the practice as a "crime against humanity".

74. Mr. YUSUHIRO SORANO (Liberation) deplored the Japanese Government's rejection of the conclusions of Ms. Chavez's report on systematic rape, sexual slavery and slavery-like practices during periods of armed conflict (E/CN.4/Sub.2/1996/26). Despite the recommendations of the Sub-Commission, it had taken no measures to seek out, prosecute or punish those responsible for the treatment of the "comfort women", which constituted a crime against humanity.

75. Worse still, Mr. Okuno, the former Minister of Justice, had declared that the women had been recruited to engage in "commercial activity". The Japanese Prime Minister had said a month previously that he had nothing to do with Japanese war criminals. The attitude of the Japanese authorities, who were resorting to private funds to evade State responsibility, only harmed the victims.

76. Moreover, the Japanese courts and Government were refusing to compensate Koreans who had undergone forced labour during the War and who, in some cases, had lost one or more limbs.

77. Liberation recommended that the Sub-Commission should urge the Japanese Government not merely to acknowledge war crimes committed by the Japanese State, but also to take action on behalf of the victims in accordance with international law.

The meeting rose at 1.05 p.m.